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April 29, 1998

Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Attention: Stop Code 1800D5
Chief, Allocations Branch

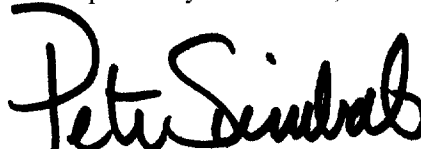
Re: Amendment of Section 73.202(b) of the Commission Rules
Table of FM Channel Allotments
(Macon and Hampton, Georgia)
MM Docket No. 98-18; RM-9204

Dear Ms. Salas:

On behalf of Cox Radio, Inc. ("Cox"), we hereby transmit to you an original and four copies of Cox's reply comments in response to the Commission's *Notice of Proposed Rulemaking* in the above-captioned proceeding.

Please contact the undersigned if any questions should arise.

Respectfully submitted,


Peter Siembab

Enclosure

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FEDERAL COMMUNICATIONS COMMISSION
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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)	
)	
Amendment of Section 73.202(b))	
Table of Allotments,)	MM Docket No. 98-18
FM Broadcast Stations.)	RM-9204
(Macon and Hampton, Georgia))	

To: Chief, Allocations Branch
Stop Code 1800D5

REPLY COMMENTS OF COX RADIO, INC.

Cox Radio, Inc. ("Cox"),^{1/} by its attorneys, submits herewith its Reply Comments reaffirming its opposition to U.S. Broadcasting Limited Partnership's ("USBLP") proposal in the above-captioned rulemaking proceeding to reallocate Channel 300C1 from Macon to Hampton, Georgia, and modify WPEZ(FM)'s license to specify Hampton as its community of license.^{2/} Cox also opposes the counterproposal filed by Dogwood Communications, Inc. ("Dogwood") to the extent that it includes Channel 300C1's reallocation to Hampton. As shown herein, Hampton is undeserving of a first local service and a reallocation of Channel 300C1 would not be in the

^{1/} Cox or a subsidiary is the licensee of three radio stations in the Atlanta radio metro market, WJZF(FM), La Grange, Georgia, and WSB(AM) and WSB-FM, Atlanta, Georgia.

^{2/} *Amendment of Section 73.202(b), Table of Allotments FM Broadcast Stations (Macon and Hampton, Georgia)*, Notice of Proposed Rulemaking, DA 98-289, MM Dkt. No. 98-18, RM-9204 (Rel. Feb. 20, 1998).

public interest. Accordingly, the Commission should deny USBLP's proposal and Dogwood's counterproposal.^{3/}

I. Hampton Does Not Merit a First Local Service Priority.

As detailed in Cox's comments, USBLP's proposal relies on outdated statistics that fail to depict accurately Hampton's current population and its proximity to the Atlanta Urbanized Area. Since 1990 Hampton and the Atlanta Urbanized Area have undergone significant growth. Between 1990 and 1997, the population of the Atlanta Region has increased nineteen percent, the second fastest in the country. Likewise, Hampton grew sixty-two percent between 1990 and 1996. While less than five miles separated Hampton from the Atlanta Urbanized Area in 1990, it is likely that Hampton presently rests within the Urbanized Area. In instances where a proposed community is either wholly or partially within an Urbanized Area, the Commission applies the *Huntington* doctrine to the proposal to determine whether the proposed community should be attributed with the local services of the nearby metropolis.^{4/} Given the explosive growth in the region and the proximity of Hampton to Atlanta, the Commission should apply the *Huntington* doctrine to USBLP's proposal.

The record demonstrates that Atlanta is sufficiently large and dominant enough to preclude a finding that Hampton is an independent community entitled to a first local service.

^{3/} Cox's reply comments are filed pursuant to a one day extension requested by USBLP's counsel and unanimously agreed to by counsel for USBLP, Dogwood and Cox. USBLP filed a formal request for Commission consent to extend the deadline for accepting reply comments from these three parties through April 29, 1998. *See USBLP's Consent Petition for Extension of Time and for Acceptance of Late-Filed Reply Comments* (filed Apr. 28, 1998). Therefore, these reply comments are timely filed.

^{4/} *See, e.g., Hallie and Ladysmith, Wisconsin*, 10 FCC Rcd 9257 (1995).

Hampton's population is 1/150th that of Atlanta. The amount of land area in Atlanta is 341 square kilometers while Hampton is approximately three percent the size, barely covering eleven square kilometers. Atlanta is a brief thirty-minute commute for Hampton residents, of whom approximately seventy percent travel outside the community for work. A majority of Hampton residents also shop and participate in entertainment outside of Hampton. No nationally-recognized civic organizations have Hampton chapters. Hampton has no local newspaper, broadcast station or cable system. Hampton depends on other local communities for fire, coroner and medical examiner services. It has no public transportation system, hospitals, middle or upper schools, chamber of commerce, or parks and recreation administration.

In fact, Hampton is becoming synonymous with Atlanta. Hampton's largest attraction is named the Atlanta Motor Speedway. Hampton is treated as part of the Atlanta market by radio advertisers. Even its residents are subject to Atlanta's automobile emission inspection program.

Based on the totality of circumstances, WPEZ's move-in proposal should be treated as an Atlanta allocation. Accordingly, Hampton is undeserving of a first local service preference.

II. The Public Interest Is Served by Retaining the Existing Allotment.

Without a first local service preference, USBLP's proposal is subject to a public interest evaluation.^{5/} Where both communities are abundantly served, the Commission grants allotments

^{5/} See, e.g., *Oxford and New Albany, Mississippi*, 3 FCC Rcd 6626, 6626 (1988) (noting that when allotment criteria are equal or inapplicable, the Commission bases its decision on the fourth priority, other public interest matters).

to the larger of the two communities.^{6/} Because Macon's population is almost forty times larger than Hampton's, WPEZ should remain licensed to Macon.

WPEZ's reallocation would result in approximately 403,028 listeners losing reception of a service that has been licensed to Macon for twenty-five years. These listeners have a legitimate expectation of continued service^{7/} and should not be forsaken merely because USBLP wants to serve a larger urban market. The Commission has repeatedly stated that it will not permit its allotment priorities and policies to be used in a manner which might appear to condone their artificial and unwarranted manipulation.^{8/} A first local service preference to Hampton is precisely the manipulation that should not be permitted.

III. Conclusion.

Hampton is inextricably interrelated with Atlanta such that an allotment of Channel 300C1 to Hampton is, in essence, an allotment to Atlanta. This result does not merit a first local service priority nor is it in the public interest. USBLP's proposal serves a smaller community than Macon and results in over four hundred thousand people losing a service that they have grown to rely on for twenty-five years.

^{6/} See, e.g., *Mount Horeb, Mazomanie and Dodgeville, Wisconsin*, 12 FCC Rcd 11963, 11964 (1997); *Stamford and Whiteboro, New York*, 7 FCC Rcd 1674, 1674 (1992).

^{7/} See *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 5 FCC Rcd 7094, 7097 (1990) ("*Change of Community MO&O*").

^{8/} See, e.g., *RKO General*, 5 FCC Rcd 3222, 3223 (1990); *Change of Community MO&O*, 5 FCC Rcd at 7097.

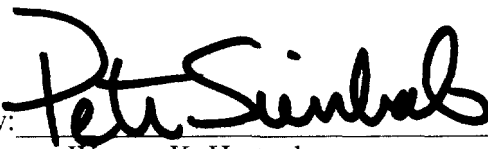
Cox concurs with Dogwood's comments that the Commission should deny USBLP's petition to reallocate Channel 300C1 from Macon to Hampton, Georgia, and modify WPEZ's license to specify Hampton as its community of license.

Cox, however, opposes Dogwood's counterproposal to the extent that it provides for the reallocation of Channel 300C1 to Hampton. Dogwood's counterproposal suggests that if the Commission finds merit in USBLP's proposal, it should reallocate Channel 300C1 to Hampton and modify WPEZ's license, but impose a site restriction on WPEZ's transmitter. Notwithstanding the mutual exclusivity of USBLP's and Dogwood's applications, Cox considers a reallocation of Channel 300C1 not to be in the public interest.

For the reasons stated herein, Cox respectfully urges the Commission to deny USBLP's petition and Dogwood's counterproposal to reallocate Channel 300C1 to Hampton.

Respectfully submitted,

COX RADIO, INC.

By: 
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April 29, 1998

CERTIFICATE OF SERVICE

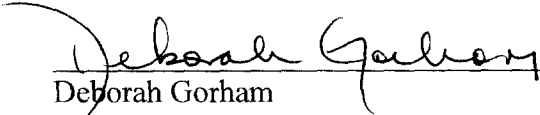
I, Deborah Gorham, hereby certify that a true and correct copy of the foregoing "Reply Comments of Cox Radio, Inc." was sent on this twenty-ninth day of April, 1998, via first-class United States mail, postage pre-paid, to the following:

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Policy and Rules Division
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